



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO.256 OF 2023
IN WRIT PETITION NO.2552 OF 2020
WITH
REVIEW APPLICATION NO.257 OF 2023
IN WRIT PETITION NO.2555 OF 2020**

Chandrashekhar S/O Manmathappa Chavanda
And Others

... Applicants
(Original Petitioners)

Versus

The State Of Maharashtra
And Others

... Respondents
(Original Respondents)

....

Mr. Vivek Dhage, Advocate for Applicants
Mr. Rajdeep Raut, AGP for Respondent/State
Mr. M.S. Shah, Advocate for Respondent Nos.3 to 5, 7 to 9 and 10 to 15
Mr. N.P. Patil Jamalpurkar, Advocate for Respondent Nos.2, 18 to 22,
25 to 29, 32

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**CORAM : NITIN B. SURYAWANSHI, J.
RESERVED ON : 27th SEPTEMBER, 2024
PRONOUNCED ON : 16th OCTOBER, 2024**

ORDER :

1. By these review applications, applicants seek review of the order dated 25/08/2023, passed by this Court in Writ Petition No.2552/2020 along with Writ Petition No.2555/2020. Review applicants are original petitioners and respondents are original respondents in the writ petitions. By order dated 25/08/2023, Writ Petition Nos.2552/2020 and 2555/2020, were dismissed.

2. Learned advocate for applicants submits that the Joint Charity Commissioner had, in fact, partly allowed Appeal No.1002/2019, thereby setting aside the order dated 16/04/2015,

passed by the Deputy Charity Commissioner, Latur, in Change Report Inquiry No.564/2008 to the extent of applicants. In that view of the matter applicants have to be treated as Trustees of the Trust Maharashtra Education Society, Udgir, however, this Court has observed in the order under review that the challenge of petitioners is negated by the Joint Charity Commissioner. Since this observation is contrary to the order passed by In-charge Joint Charity Commissioner, Aurangabad, the order is liable to be reviewed and the writ petitions deserve to be allowed in favour of applicants/petitioners.

3. Learned advocates for respondents by relying on **S. Madhusudhan Reddy Vs. V. Narayana Reddy and Others, MANU/SC/1013/2022** and **Shri Ram Sahu (Dead) Through LRs Vs. Vinod Kumar Rawat and Others (2021) 13 SCC 1**, vehemently opposed the review applications, stating that no ground for review is made out.

4. There is chequered history between the parties. It appears from record that earlier Writ Petition Nos.1098/2018 and 3855/2018 filed by the parties were decided by this Court (Coram: Ravindra V. Ghuge, J.) vide order dated 26/03/2019. In the said order it is observed that, though membership of these applicants is invalidated by the Deputy Charity Commissioner vide order dated 16/04/2015 and they have not challenged the same by filing appeal before Joint Charity Commissioner, they will not be permitted to be

voters in the ensuing elections. Writ Petition Nos.1098/2018 and 3855/2018 along with Civil Application Nos.4126/2019 and 4127/2019, were disposed of by consent vide order dated 26/03/2019, observing that, "... *The issue of those 8 persons, whose membership has been invalidated by the order dated 16/04/2015, will not be permitted to be the voters in the ensuing elections. However, their grievance against the order dated 16/04/2015 is left open, "if" and "as is" permissible in law*". Applicants approached the Apex Court challenging the order dated 26/03/2019 passed by this Court, however, withdrew the S.L.P. with liberty to file review petition.

5. Pursuant to the order passed by this Court (Coram: Ravindra V. Ghuge, J.) in Writ Petition Nos.1098/2018 and 3855/2018, applicants have filed Review Application Nos.69/2019 and 70/2019, in which following order is passed:-

"5. In the event, these review petitioners prefer an appeal before the learned Joint Charity Commissioner in view of the above for challenging the order dated 16/04/2015 to their extent, the said authority would decide their appeal within a period of 6 (six) months. If required, the respondents in the said appeal could be served through paper publication. All contentions of the litigating sides including the submissions under Order 41 Rule 33 of the CPC are kept open.

6. Needless to state, the consensus before this Court arrived at between the 51 persons belonging to the Dandwate Group and the 13 persons belonging to the Tondare Group, may be considered.

7. The interim order passed by the learned Vacation Court on 17/05/2019 in the review applications, is therefore, vacated."

6. Applicants thereafter filed Appeal No.1002/2019 before the Joint Charity Commissioner, Aurangabad, challenging the order dated 16/04/2015, passed by the Deputy Charity Commissioner, Latur, in Change Report Inquiry No.564/2008, under Section 22 of the Maharashtra Public Trusts Act, 1950. While partly allowing the appeal by order dated 08/01/2020, the Joint Charity Commissioner has made following observations:-

“(17) Appellants has sought declaration for them as legal and valid member of the Society/Trust and that is out of scope of section 22 of the Maharashtra Public Trusts Act, 1950 and it is to be decided by competent authority.

(18) Considering the submissions I found that the prayer of appellant for declaration them as legal and valid cannot be allowed but at the same it can be recorded that order of learned Deputy Charity Commissioner, Latur, in respect of present appellants is to be set aside. Hence, I recorded findings accordingly to point No.1 and in the result I pass the following order:-

ORDER

(1) The Appeal is partly allowed to the extent of present Appellants and order of learned Deputy Charity Commissioner, Latur passed in change report Inquiry No.564/2008 dated 16/04/2015 to the extent of present Appellants is set aside.

(2) Entry of this order be taken on Schedule-I.

(3) No order as to costs.

(4) Inform the concerned Authority.”

7. From the above order it is clear that applicants were not given declaration that they are legal and valid members of the Trust as it was beyond the scope of Section 22 of the Maharashtra Public Trusts Act. The issue of their membership was to be decided by the competent authority. Admittedly, till date applicants have not approached the competent authority seeking declaration of their

membership. Subsequently, two elections have taken place in which applicants have not participated. In this view of the matter, there is no merit in the contention of applicants that since the order passed by Deputy Charity Commissioner to their extent is set aside, they are declared to be legal and valid members and therefore, the review deserves to be allowed.

8. Applicants have argued the review applications as if they are arguing appeal against the order under review. In **Meera Bhanja Vs. Nirmala Kumari Choudhury, (1995) 1 SCC 170**, it is held,

"8. It is well-settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, C.P.C. In connection with, the limitation of the powers of the Court under Order 47, Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution, this Court, in Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389, speaking through Chinnappa Reddy, J., has made the following pertinent observations:

"It is true there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent mis-carriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of Appeal. A power of review is not to

be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court.””

9. In ***Parsion Devi Vs. Sumitri Devi, (1997) 8 SCC 715***, it is held,

“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".”

10. It is settled law that in exercise of review jurisdiction this Court cannot re-appreciate overruled arguments for re-opening the conclusions arrived at in the order under review. Review jurisdiction cannot be exercised merely because another view is possible.

11. In the light of aforestated observations and reasons, no case is made out by applicants to entertain the review applications. Review applications, being devoid of merit, are dismissed.

(NITIN B. SURYAWANSHI, J.)